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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,835	10/11/2001	Clemens Beisch	055842-0104	7771
22428	7590	03/23/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			CARTER, TIA A	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/973,835

Applicant(s)

BEISCH ET AL.

Examiner

Tia A Carter

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9-19-02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1 and 7 provides for the use of scanners and digital cameras, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:  
  
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 –11 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Claim Objections***

5. Claims 4-6 and 10-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims cannot depend from another multiple dependent claim. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (US. 5271096).

Regarding claim 1, Cook disclose a process and target for calibration of digital Input devices, especially scanners and digital cameras, using a calibration picture

(specified through the usage of normed, printable colors) to photograph or scan for adjustment of color values (fig. 1, col. 4, lines 52-68).

Regarding claim 2, Cook disclose a process according to claim 1, specified through the usage of CMYK (Cyan/Magenta/Yellow/Black) colors on the calibration picture (fig. 1, col. 9, lines 39-41; col. 5, lines 19-20).

Regarding claim 3, Cook disclose a process according to claims 1 or 2, specified through the usage of only the most important gamut colors of the CMYK color space (fig. 1, col. 9, lines 39-41).

Regarding claim 4, Cook disclose a process according to claims 1 to 3, specified by the fact that the data achieved by the input device is transformed with a single conversion into the target color space (fig. 2, col. 9, lines 28-46).

Regarding claim 5, Cook disclose a process according to claims 1 to 4, specified by the fact a calibration picture is used which is printed with offset-printing (sheet fed offset or rotary offset), gravure printing or screen printing (fig. 1, col. 10, lines 13-15).

Regarding claim 7, Cook disclose a target for calibration of (digital input devices, especially scanners and digital cameras, using a pattern of different colors, specified through the usage of normed, printable colors (fig. 1, col. 4, lines 52-68).

Regarding claim 8, Cook disclose a target according to claim 7, specified through the usage of CMYK (Cyan/Magenta/yellow/Black) colors (fig. 1, col. 9, lines 39-41; col. 5, lines 19-20).

Regarding claim 9, Cook disclose a target according to claims 7 or 8, specified through the usage of only the most important gamut colors of the color space (fig. 1, col. 9, lines 39-47).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (Us. 5271096) in view of Rolleston et al. (US. 5416613).

Regarding claim 6, Cook discloses a process according to claims 1 to 5.

Cook does not disclose specified by the fact a calibration picture is used, with a multi- in this case tenfold repetition of the some color fields on different places on the target, following a defined pattern of repetition of the same colors, whereas the measured color data of the single color fields is averaged for the resulting color data set.

Rolleston et al. disclose specified by the fact a calibration picture is used, with a multi- in this case tenfold repetition of the some color fields on different places on the target, following a defined pattern of repetition of the same colors, whereas the measured color data of the single color fields is averaged for the resulting color data set (figs. 2, col. 6, lines 33-68 and col. 7, lines 1-10).

It would have been obvious to one skilled in the art at the time of the invention to modify Cook wherein the target color area could be adjusted based upon a repetition process and/ or user intervention. This process enhancement would allow a user to access an accurate and precise color image output.

Regarding claim 10, Cook discloses a target according to claims 7 to 9.

Cook does not disclose specified by the fact a calibration picture is used, with a multi- in this case tenfold repetition of the same color fields on different places on the target following a defined pattern of repetition of the same colors, whereas the measured color data of the single color fields is averaged for the resulting color data set.

Rolleston et al. disclose specified by the fact a calibration picture is used, with a multi- in this case tenfold repetition of the same color fields on different places on the target following a defined pattern of repetition of the same colors, whereas the measured color data of the single color fields is averaged for the resulting color data set (figs. 2, col. 6, lines 33-68 and col. 7, lines 1-10).

It would have been obvious to one skilled in the art at the time of the invention to modify Cook wherein the target color area could be adjusted based upon a repetition process and/ or user intervention. This process enhancement would allow a user to access an accurate and precise color image output.

Regarding claim 11, Cook discloses a target according to claims 7 to 10.

Cook does not disclose specified by the fact, that colors are pointed with frequency modulated screening.

Rolleston et al. disclose specified by the fact, that colors are pointed with frequency modulated screening (fig. 2, col. 5, lines 62-68 and col. 6, lines 1-2).

It would have been obvious to one skilled in the art at the time of the invention to modify Cook wherein the signal generated via the measuring process would elect specific colors for adjustment providing the user with a more accurate account of the desired color.



**Conclusion**


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maggi (US. 6798446) and Smilansky et al. (US. 5339176) are cited to show related art with respect to scanner and printer calibration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tia A Carter whose telephone number is 703 - 306-5433. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on 703-305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
TAC

  
**KIMBERLY WILLIAMS**  
**SUPERVISORY PATENT EXAMINER**

Tia A Carter  
Examiner  
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